IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

Bail Appl..No. 5487 of 2007()

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(CRIME NO. 5487/05 OF THAMARASSERY POLICE STATION.)

PETITIONER/2ND ACCUSED:

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SHYLAJA, W/O.BABU, AGED 31 YEARS,
CHOORAKANDY,EDUTHUVECHAKALLU,
MAILALLAMPARA P.O., PUTUPPADI AMSOM DESOM.

BY ADV. SRI.LUIZ GODWIN D'COUTH

RESPONDENT/COMPLAINANT:

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STATE OF KERALA REPRESENTED BY THE
SUB INSPECTOR OF POLICE, THAMARASSERY THROUGH
PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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B.A.No. 5487 of 2007

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Dated this the 11th day of September, 2007

**O R D E R**

Application for anticipatory bail. The petitioner is the second accused. The first accused is her husband. They face allegations under the Kerala Abkari Act. 10 litres of illicit arrack was allegedly found to be in possession of the accused persons. The first accused was arrested, but the second accused was not available for arrest. It is alleged that the petitioner took to her heels and could not be arrested.

2. The learned Prosecutor submits that the investigation is already complete and the final report has already been filed. The Investigators do not want to arrest the petitioner now. It is for the petitioner to appear before the learned Magistrate and seek regular bail, submits the Prosecutor.

3. I find merit in the submissions made by the learned Prosecutor. I am satisfied that it is not necessary to issue any direction under Section 438 Cr.P.C. The petitioner must appear before the learned Magistrate and seek regular bail now.

4. This application is accordingly dismissed. Needless to say, if the petitioner appears before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously in the light of the decisions in **Sukumari** v. **State of Kerala** (2001 (1) KLT 22) and **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339) - on the date of surrender itself.

**(R. BASANT)**
Judge

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